

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JACQUELINE FERNANDEZ, on behalf of
herself and all others similarly situated,

Plaintiff,

-against-

FAM WILDFOX, LLC,

Defendant.

24 Civ. 4211 (DEH) (GS)

ORDER

DALE E. HO, United States District Judge:

On August 13, 2024, Magistrate Judge Stein entered a Case Management Plan and Scheduling Order in this case, setting discovery to conclude on December 10, 2024. ECF No. 13. The deadline to complete discovery has now expired, as have the deadlines to move for summary judgment or to file pretrial submissions. *Id.* Accordingly, on April 4, 2025, Judge Stein issued an Order to Show Cause directing Plaintiff to explain, by April 11, 2025, why this action should not be dismissed for failure to prosecute pursuant to Rule 41 of the Federal Rules of Civil Procedure. ECF No. 14. As of today, April 21, 2025, Plaintiff has failed to respond to Judge Stein’s Order to Show Cause.

Rule 41(b) of the Federal Rules of Civil Procedure provides that a case may be involuntarily dismissed if a plaintiff “fails to prosecute or to comply with these rules or a court order.” Fed. R. Civ. P. 41(b). Although the Rule expressly addresses a situation in which a defendant moves to dismiss, district courts have authority to dismiss a case *sua sponte* for failure to prosecute. *See Armstrong v. Guccione*, 470 F.3d 89, 103 n.1 (2d Cir. 2006) (noting that “a federal district court has the inherent power to dismiss a case *sua sponte* for failure to prosecute”) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-32 (1962)).

More than eight months have now passed since Plaintiff’s last communication with the Court, and more than four months have passed since the close of discovery. Plaintiff has been given

the opportunity to show cause why this action should not be dismissed for failure to prosecute, and Plaintiff has not done so.


Accordingly, it is hereby:

ORDERED that this Action be dismissed without prejudice for failure to prosecute.

The Clerk of Court is respectfully directed to close the case.

Dated: April 21, 2025
New York, New York

SO ORDERED.

A handwritten signature in black ink, appearing to read "Dale Ho", is written over a horizontal line.

DALE E. HO
United States District Judge